

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

LEON TAYLOR,)	8:06CV721
)	
Petitioner,)	
)	
v.)	MEMORANDUM
)	AND ORDER
ROBERT HOUSTON,)	
)	
Respondent.)	
)	

Petitioner filed a Petition for Writ of Habeas Corpus on November 20, 2006. (Filing No. 1.) On October 16, 2007, the court stayed these proceedings pending authorization from the Eighth Circuit for Petitioner to file a successive petition. (Filing No. 18.) The Eighth Circuit denied such authorization as to Plaintiff's ineffective assistance of trial counsel claim. (Filing No. 19.) The Eighth Circuit also denied authorization regarding Plaintiff's ineffective assistance of counsel on direct appeal claim because no authorization was necessary. (*Id.*) Thus, this matter shall proceed on Petitioner's ineffective assistance of counsel on direct appeal claim.

IT IS THEREFORE ORDERED that:

1. The following progression order is entered:
 - A. No later than May 30, 2008, Respondent shall file a separate brief addressing Petitioner's remaining claim. The brief shall address all matters germane to the case including, but not limited to, the merits of Petitioner's allegations, and whether any claim is barred by a failure to exhaust state remedies, a procedural bar, non-retroactivity, a statute of limitations, or because the Petition is an unauthorized second or successive petition. *See, e.g.*, Rules

5(b) and 9 of the *Rules Governing Section 2254 Cases in the United States District Courts*.

- B. The brief shall be supported by all state court records which are relevant to the remaining claim. *See, e.g.,* Rule 5(c)-(d) of the *Rules Governing Section 2254 Cases in the United States District Courts*. Those records shall be contained in a separate filing entitled: “Designation of State Court Records In Support of Brief.”
- C. Copies of the brief and the designation shall be served upon Petitioner *except* that Respondent is only required to provide Petitioner with a copy of the specific pages of the designated record which are cited in Respondent’s brief. In the event that the designation of state court records is deemed insufficient by Petitioner, he may file a motion with the court requesting additional documents. Such motion shall set forth the documents requested and the reasons the documents are relevant to the cognizable claims.
- D. No later than 30 days following the filing of Respondent’s brief, Petitioner shall file and serve a brief in response. Petitioner shall submit no other documents unless directed to do so by the court.
- E. No later than 30 days after the filing of Petitioner’s brief, Respondent shall file and serve a reply brief.
- F. No discovery shall be undertaken without leave of the court. *See* Rule 6 of the *Rules Governing Section 2254 Cases in the United States District Courts*.

2. The Clerk of the court is directed to set a pro se case management deadline using the following text: July 30, 2008: Briefing on the merits should be complete.

April 30, 2008.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge